

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	July 28, 2005)	
)	
PETITION BY THE FEDERAL COMMUNICATIONS)	DOCKET NO.
COMMISSION, PURSUANT TO 47 C.F.R. 54.207(D),)	05-00028
FOR TENNESSEE REGULATORY AUTHORITY)	
AGREEMENT IN REDEFINING THE SERVICE)	
AREAS OF CITIZENS TELECOMMUNICATIONS)	
COMPANY OF TENNESSEE D/B/A FRONTIER)	
COMMUNICATIONS, BLEDSOE TELEPHONE)	
COOPERATIVE, INC., TWIN LAKES TELEPHONE)	
COOPERATIVE CORP., AND NORTH CENTRAL)	
TELEPHONE COOPERATIVE, INC.)	

ORDER CONCURRING WITH FEDERAL COMMUNICATIONS COMMISSION

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on January 31, 2005, for consideration of the *Petition by the Federal Communications Commission, Pursuant to 47 C.F.R. 54.207(d), for Tennessee Regulatory Authority Agreement in Redefining the Service Areas of Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications, Bledsoe Telephone Cooperative, Inc., Twin Lakes Telephone Cooperative Corp., and North Central Telephone Cooperative, Inc.* ("Petition") filed on November 8, 2004.

Background

On November 21, 2002, Advantage Cellular Systems, Inc. (“Advantage”), a commercial mobile radio service (“CMRS”) provider, filed an *Application*¹ seeking designation as an Eligible Telecommunications Carrier (“ETC”) by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage sought ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company, which would entitle it to receive universal service support throughout its service area.

During the regularly scheduled Authority Conference on January 27, 2003, the voting panel assigned to this docket deliberated Advantage’s *Application*. Of foremost consideration was the issue of the Authority’s jurisdiction. The panel unanimously found that the Authority lacked jurisdiction over Advantage for federal universal service ETC- designation purposes.² The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6).³

¹ See *In re Application of Advantage Cellular systems, Inc to be Designated as an Eligible Telecommunications Carrier*, Docket No 02-01245 (November 21, 2002) (“*Application*”)

² This finding is not inconsistent with the Authority’s decision in *In re Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission’s rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state

³ 47 U.S.C. § 214(e)(6) states.

(6) Common carriers not subject to state commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1) Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest

Advantage's FCC Petition

On May 9, 2003, Advantage filed a petition with the FCC requesting ETC designation in its licensed service area in Tennessee.⁴ Advantage sought designation as an ETC in the study areas of BellSouth Telecommunications, Inc. ("BellSouth") as well as Rural Local Exchange Carriers ("RLECs"): Ben Lomand Rural Telephone Cooperative, Inc. ("Ben Lomand"), Bledsoe Telephone Cooperative, Inc. ("Bledsoe"), DeKalb Telephone Cooperative, Inc, d/b/a DTC Communications ("DeKalb"), Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications ("Frontier"), North Central Telephone Cooperative, Inc. ("North Central") and Twin Lakes Telephone Cooperative Corporation ("Twin Lakes"). Since Advantage's licensed area did not allow for complete coverage of the study area of BellSouth or some of the listed RLECs, Advantage requested the FCC to redefine those study areas to allow for ETC designation only in exchanges within its licensed service area. Advantage requested the FCC redefine certain study areas changing them to wire center level to accommodate its wireless carrier restricted serving area, which is only the area covered by its CMRS FCC license.

Through its petition, supplemental filings and responses to the FCC Staff, Advantage requested designation as an ETC in the entire study areas of Ben Lomand and DeKalb. Advantage also requested redefining the study areas of BellSouth and five RLECs: Bledsoe, Frontier, Twin Lakes, North Central and United Telephone Company ("United"), and for ETC designation in those partial study areas. Additionally, Advantage maintained that it was requesting the above listed service area redefinitions only for the purpose of ETC designation, and that defining the service area in the manner requested would not impact the way the affected RLECs calculate their costs for universal service support. Advantage also maintained that no

⁴ See *In re In the Matter of Federal-State Joint Board on Universal Service, Advantage Cellular Systems, Inc., Application for Designation as an ETC in the State of Tennessee*, CC Docket No. 96-45, *Petition of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier* (May 9, 2003) ("Advantage Petition")

additional burden would be placed on the RLECs because of the requested study area redefinitions.

On October 22, 2004, the FCC released its Order granting in part and denying in part Advantage's petition to be designated as an ETC. The FCC concluded that Advantage had met the statutory eligibility requirements of section 214(e)(1) to be designated as an ETC in certain study areas of BellSouth and the entire study areas of Ben Lomand and DeKalb. Additionally, the FCC granted ETC designation in certain wire center service areas within the study areas of Bledsoe, North Central, Twin Lakes, and Frontier, pending agreement by the Authority with the FCC's redefining those companies' study areas to the wire center level. In accordance with 47 C.F.R. § 54.207(d), through its Order granting Advantage ETC designation, the FCC petitioned the TRA seeking agreement with its redefining the study areas of Bledsoe, Frontier, North Central and Twin Lakes for the purpose of granting ETC status to Advantage in those partial study areas.

The FCC denied Advantage ETC designation for United's study area in its entirety. The FCC also denied Advantage ETC designation in Frontier's Cookeville South and Baxter wire centers as well as Twin Lakes' McMinnville and Cookeville wire centers. The FCC denied Advantage ETC designation in these areas based on a finding that ETC designation in these areas would not be in the public interest.

On December 8, 2004, the Authority's General Counsel issued a Notice of Filing informing all parties of the FCC's Advantage Order, and the fact that the FCC was proposing to redefine the aforementioned RLECs' study areas. In the Notice of Filing, the General Counsel invited interested parties to file comments or petition to intervene in this docket. All comments or petitions were to have been submitted no later than 2:00 p.m., Wednesday, December 22, 2004. There were no comments filed or petitions submitted in this docket on December 22, 2004, or since.

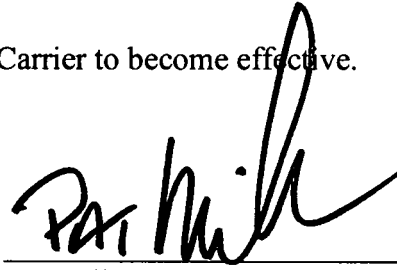
January 31, 2005 Authority Conference

At the January 31, 2005 Authority Conference, the panel voted unanimously to concur with the FCC's decision to redefine the study areas of Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications, Bledsoe Telephone Cooperative, Inc., Twin Lakes Telephone Cooperative Corporation and North Central Telephone Cooperative, Inc. for the purpose of permitting the FCC's designation of Advantage Cellular Systems, Inc. as an ETC in those study areas to become effective. The panel found that the RLECs would not be harmed by redefining the RLECs' study areas to the wire center level and granting Advantage ETC status in those areas. Because Advantage would not be providing service in only the lucrative, low cost, high revenue exchange areas within the new study area definition, the RLECs would not be placed at a competitive disadvantage. Additionally, redefining the study areas would not create a significant impact on the RLECs or their high-cost support because Advantage's ETC-designation would not change the amount of universal service support available to the RLECs. The panel also found that it was in the public interest to concur with the FCC in redefining the study areas and granting Advantage ETC status because it would allow Advantage to accelerate the deployment of its advanced wireless service to rural Tennesseans, as well as, provide basic universal services to rural subscribers.

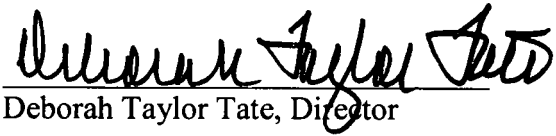
IT IS THEREFORE ORDERED THAT:

The Tennessee Regulatory Authority concurs with the Federal Communications Commission's October 22, 2004 Order redefining the study areas of Citizens Telecommunications Company of Tennessee d/b/a Frontier Communications, Bledsoe Telephone Cooperative, Inc., Twin Lakes Telephone Cooperative Corporation and North Central Telephone Cooperative, Inc., for the purpose of permitting the designation of Advantage Cellular

Systems, Inc. as an Eligible Telecommunications Carrier to become effective.

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Pat Miller, Chairman

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Deborah Taylor Tate, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director